

SB 426  
House Natural Resources  
April 1, 2009

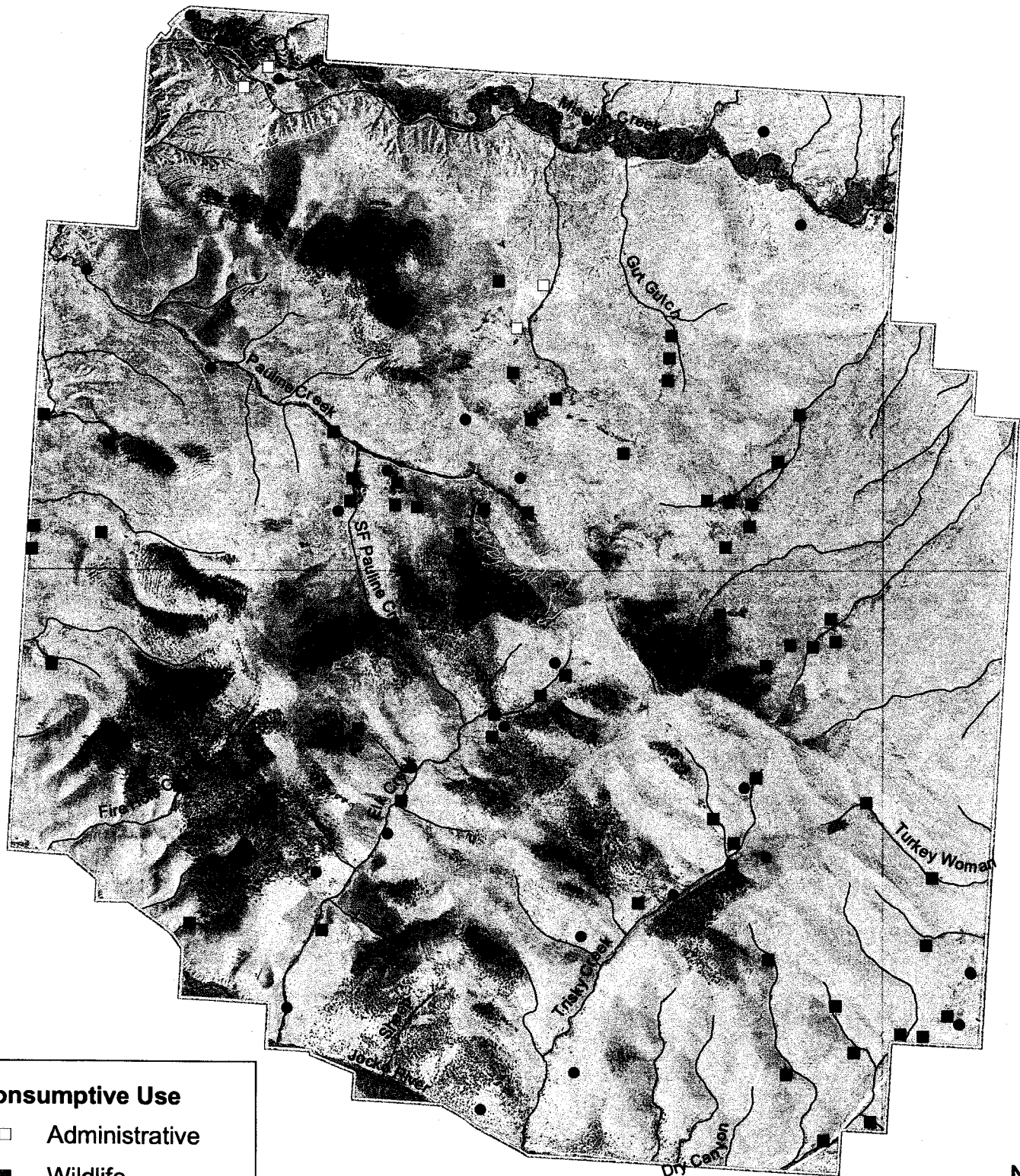
EXHIBIT 1  
DATE 4/1/09  
SB 426

**Proposed U.S. Fish & Wildlife Service National Bison Range / Montana Reserved Water Rights Compact Commission Compact**

- The Montana Reserved Water Rights Compact Commission and the United States Fish and Wildlife Service (FWS) have been in negotiations, pursuant to Montana law, to quantify the federal reserved water rights of the FWS for the National Bison Range, located in Water Court Basin 76L on the Flathead Indian Reservation near Charlo, Montana.
- The RWRCC was created by the Montana Legislature in 1979 to act on behalf of the State to negotiate settlements of federal reserved water right claims as part of the state-wide water adjudication. A federal reserved water right is created when an Act of Congress or a Presidential Executive Order or Proclamation sets aside federal land from the public domain for a specified purpose. This includes Indian Reservations, some Fish and Wildlife Refuges, some BLM lands, National Forests, National Parks, and others. The water right has the priority date of the reservation of the land, even though the water right might not have been used at that time or even at present. The water right includes the amount of water necessary to accomplish the specified purpose(s) for which the land was reserved.
- By state law a negotiated settlement must be enacted by the Montana Legislature, be approved by federal officials, and go through an objection process in the Montana Water Court. After objections to all claims (including objections to the Compact) are resolved, the Water Court issues a final decree for all water rights in each basin, including the reserved rights in the negotiated settlement.
- This Compact quantifies federal reserved water rights for the FWS' National Bison Range from springs, seeps, naturally-occurring flood flows and groundwater sources arising inside the boundaries of the National Bison Range for:
  - Consumptive wildlife use rights for up to 755 animal units (one male bison equals 1.5 animal units; one female bison equals 0.9 animal units; one elk equals 0.75 Animal Units, and one mule deer, whitetail deer, bighorn sheep or antelope equals 0.2 Animal Units);
  - Non-consumptive wildlife uses from springs, seeps and naturally-occurring surface flows;
  - Consumptive and non-consumptive administrative uses, including but not limited to domestic, lawn and garden, storage and dust abatement purposes.
- The water rights recognized in this Compact will have no appreciable effect on any water uses outside the Bison Range as the sources of these water rights are predominantly springs, seeps and groundwater arising within the boundaries of the Bison Range.
- The priority date for these uses shall be May 23, 1908.
- These water rights will be administered in the same way as water rights established under state law.
- Nothing in this Compact concerns the management of the National Bison Range, only on the federal reserved water rights that Bison Range managers will have at their disposal.

# National Bison Range

Points of Diversion



## Consumptive Use

- Administrative
- Wildlife

## Non Consumptive Use

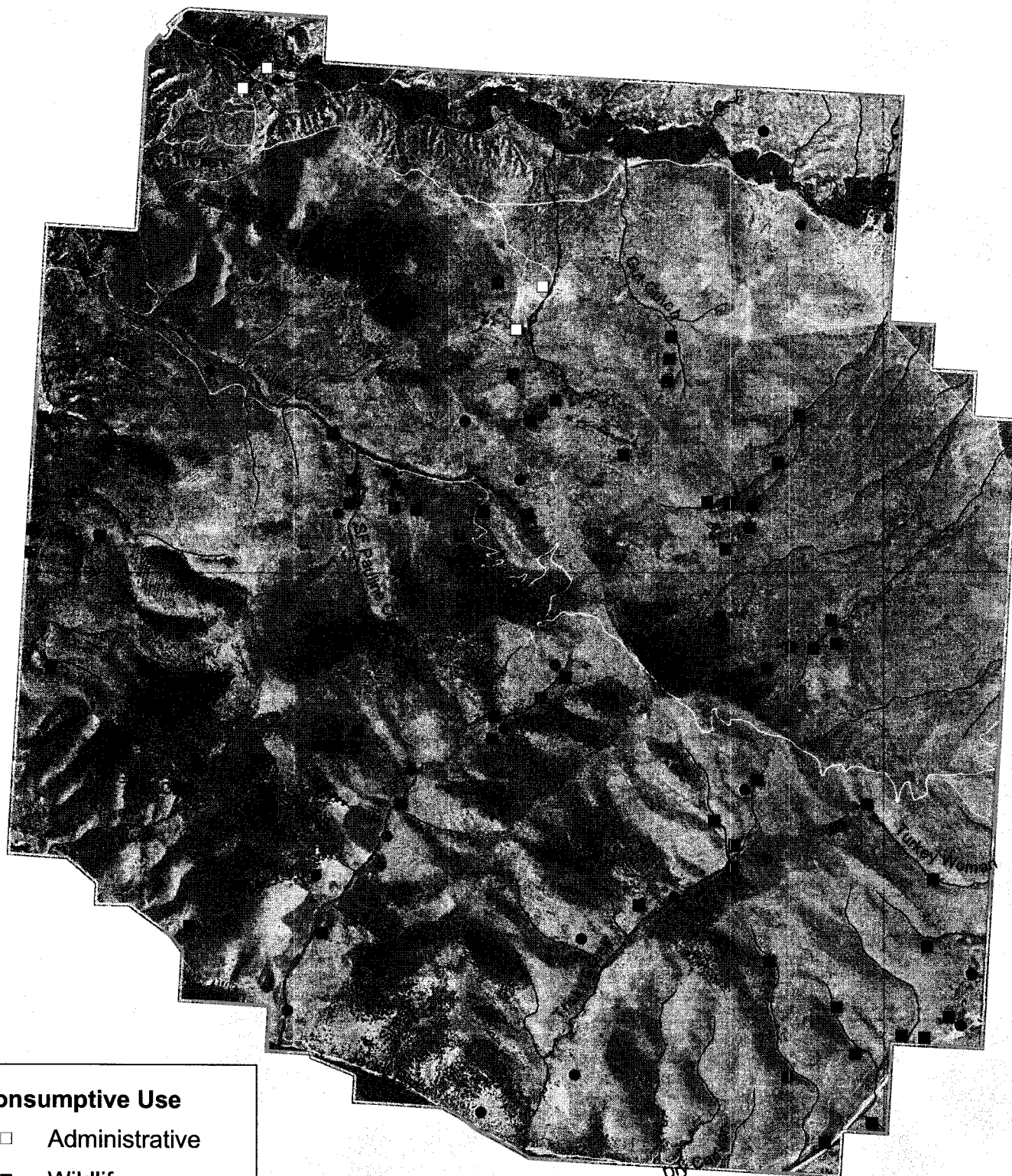
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0 0.5 1 2 Miles



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## **Testimony in support of the Federal Reserved Water Rights Compact for the National Bison Range**

The National Bison Range was established by special Congressional Acts, May 23, 1908 (35 Stat. L. 267-8, Agricultural Appropriation Act, Fiscal Year 1909 – 12,800 acres) and March 4, 1909 (35 Stat. 1051, Agricultural Appropriations Act, Fiscal Year 1910 – increased acreage to 18,521.35 acres), which authorized the President to reserve land on the Flathead Indian Reservation in Montana for a permanent national bison range for a herd of bison presented by the American Bison Society, and for other mammals and birds. The Refuge currently encompasses 18,540 acres in Lake and Sanders Counties, Montana. It is administered by the U.S. Fish and Wildlife Service, in cooperation with the Confederated Salish and Kootenai Tribes, as a unit of the National Wildlife Refuge System.

Executive Order No. 3596, dated December 22, 1921, provided that "all lands that are now or may hereafter be included within the boundaries the Montana. National Bison Range, the Sullys Hill National Park Game Reserve, North Dakota; and the Elk Refuge, Wyoming, be and the same are hereby further reserved for use of the Department of Agriculture as refuges and breeding grounds for birds." This order made it illegal to hunt, trap, capture, willfully disturb or kill any bird, or take the eggs of any bird, within the boundaries of these reservations.

Refuge objectives are as follows:

1. Assist in maintaining a publicly-owned gene pool for continued preservation of bison as a native species of North America.
2. Provide for public viewing and enjoyment of the animals and their habitat to foster understanding and appreciation for wildlife and wildlands.
3. Serve as an educational, demonstration, and training area for people interested and involved with the conservation and management of bison, other wildlife and their habitats.
4. Promote such research on bison, other wildlife species and their habitats as may be compatible with other objectives.
5. Provide surplus bison and other big game species as a source of breeding stock, transplant stock or meat to other public and private entities.

These objectives also apply to other species of big game found on the National Bison Range. Elk, Bighorn sheep, Pronghorn Antelope, Mule deer, White-tailed deer, and Mountain goats were stocked on the Range between 1910 and 1964, with only two White-tailed deer being present at the time the boundary fence was completed in 1910. No active management of birds takes place on the Range, however, birds utilize the riparian areas surrounding the springs, seeps and streams on the Range, as well as the Ravalli Ponds, for feeding, breeding and loafing habitat.

The U.S. Fish and Wildlife Service supports the establishment of a Federal Reserved Water Rights Compact for the National Bison Range. The Service agrees that this mechanism is in the best interest of all Parties for the settlement of the Federal reserved water right claims of the Service for this unit of the National Wildlife Refuge System. This Compact will avoid potentially lengthy and costly litigation in resolving these claims.

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